IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. **5369 of 2006**

Date of decision: March 14, 2007.

Tej Pal

.....Petitioner

Vs.

State of Haryana and another

.....Respondents.

Present: Mr. R.K.Malik,Advocate for the petitioner.

Mr. Kartar Singh, Assistant Advocate General, Haryana,
for respondent-State.

JUDGMENT

M.M.Aggarwal, J.

Petitioner Tej Pal was appointed as Deputy Forest Ranger vide order dated 2.9.2004 of Principal Chief Conservator of Forests, Haryana, Panchkula on the recommendation of Secretary, Haryana Staff Selection Commissioner, Chandigarh. He was a candidate of BC-B Category. 39 posts of Deputy Forest Rangers had been advertised on 6.7.2003 and petitioner had applied under that category. He was found fit and therefore appointed but then a show cause notice dated 14.2.2006, copy Anjnexure P-2, was issued to him that one Parveen Kumar who was also of BC-B Category and had applied

against Roll No.3536 had filed Civil Writ petition No. 1889 of 2004 in which directions were issued to the Haryana Staff Selection Commission to complete the process of selection of that Parveen Kumar and Parveen Kumar was found to be shown at Serial No. 24-A of the merit List and was entitled to be appointed. Whereas Tej Pal present petitioner was put on the waiting list at No.1. As such Parveen Kumar was entitled to appointment and Tej Pal present petitioner was asked to show as to why his appointment as Deputy Ranger be not cancelled. Thereafter order copy Annexure P-4 dated 30.3.2006 was passed by the respondent cancelling appointment of Tej Pal present petitioner as Deputy Forest Ranger. This is a petition against that order.

On behalf of the petitioner, it was argued that as per policy of Haryana State regarding reservation, copy Annexure P-6, there were to be 11% posts for BC-B Category and when there were 39 posts advertised, then 4 posts will be available for this category.

It was also pointed out that now as many as 10 posts for direct recruits were available and petitioner could be adjusted against any of the posts.

A decision of division Bench of this Court in Civil Writ Petition No. 7062 of 2003 (Rajesh Kumar Vs. State of Haryana and others) decided on 1.7.2004 (copy Annexure P-7) was relied. It was argued that petitioner should be allowed to continue in service. Another judgment of this Court in Civil Writ petition No. 7302 of 2001 (Atul Vs. State of Haryana and another) decided on 19th February, 2003, copy Annexure P-8 was also relied.

On behalf of the respondents-State, reply had been filed in which split up of 39 posts available for different categories are given as under:

Gen.	SCA	SCB	BCA	BCB	OPS
19	3	3	4	2	2

Ex.-SM

SCA	SCB	BCA	BCB	Gen.
1	**-**	**1**	**2**	**2**

As per policy, copy Annexure P-6, apart from 11% posts in BC-B Category, 10% had been separately reserved by ESM (Dependents of ESM). It could not be made out as to how two separate categories of BC-B each with two posts had been shown in the advertisement and now have been shown in the written reply.

On behalf of the State, reliance had been placed on the judgment of the Hon'ble Supreme Court reported in Prem Singh and others Vs. Haryana State Electricity Board and others (1996) 4 Supreme Court Cases 319 and it was argued that no excess recruitment than the advertised post should be made. However, it is not shown that all the 39 posts advertised or all 4 posts of BC-B Category had been filled.

Here is a case where petitioner was given appointment letter on 2.9.2004. He had joined the post and then show cause notice had been issued on 14.2.2006 after about 1-1/2 years and there also it was shown that after adjustment of Parveen Kumar, he will be at waiting list No.1 of BC-B Category. 10 posts for direct recruitment are still available. As per the reservation policy, 4 posts out of 39 posts, would have fallen to the share of BC-B Category.

When this petition was filed, then operation of the impugned order

dated 30.3.2006 was stayed and petitioner is still continuing in service and it cannot at all be said that petitioner had in any way mis-represented or was party in getting appointment letter by using ulterior means.

In the facts and circumstances, it will be proper if petitioner is allowed to continue in service, even when Parveen Kumar is accommodated and is given appointment.

As such, this petition is allowed. Impugned order dated 30.3.2006 (Annexure P-4) is quashed.

(M.M.Aggarwal)
Judge

March 14, 2007
raghav